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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,132	11/26/2003	Gerald Duhamel	14296-23US-1 CMB/ld	4651
31831 7590 02/28/2007 LABTRONIX CONCEPT INC. C/O OGILVY RENAULT 1981 MC GILL COLLEGE AVENUE SUITE 1600 MONTREAL, QUEBEC, H3A 2Y3 CANADA			EXAMINER WEBER, CHRISTOPHER STEVEN	
			ART UNIT 3714	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/28/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/722,132	Applicant(s) DUHAMEL ET AL.	
	Examiner Christopher S. Weber	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/13/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/26/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/13/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: Spelling error. There is an error in Paragraph 0038 of the specification, "Corresponding *gem* title". Appropriate correction is required.

Claim Objections

2. Claim 14 is objected to because of the following informalities: Claim 1 is two sentences; claims must consist of one sentence. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 18, 22, 34 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Goldman et al. US Patent 4,157,829 (hereinafter "Goldman").
5. Regarding at least claims 1, 22 and 40, Goldman discloses receiving a request to play a participation game, Col 2 lines 33-35; associating current draw result and game card with said request and providing both the draw result and card upon request, Col 2 Lines 44-48 and 63-68; Comparing draw result and game card to determine end of game criteria, Col 2 Lines 44-48; immediately returning any payout which would prevent using game card for further draw result comparison, Col 2 Lines 50-62.

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6. Regarding at least claims 2-5, Goldman discloses that positive end of game criteria produces a winner, game over, and that unique end of game criteria exist such as 3 of 5, 4 of 5, or 5 of 5, Col 5 Table 1.
7. Regarding Claim 6, Goldman discloses initiating draw result upon first request to play, Col 2 Lines 33-36.
8. Regarding Claim 18, Goldman discloses requiring validation for certain prizes. Col 2 Lines 58-62.
9. Regarding at least claim 34, Goldman discloses that a number of different games can be played at the same vending machine each would have its own drawing register, Col 2 Lines 23-30.

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1-5, 7, 8-20, 22-27, 29-32, and 35-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Itkis et al. US Patent Publication 2002/0094860 (hereinafter "Itkis").
11. Regarding at least claims 1, 7 and 22, Itkis discloses receiving a request to play a participation game, 0048 line 4; associating current draw results with requested game, 0049 Lines 9-16; associating a game card with requested game, 0048 lines 5-7; comparing game card with draw result, 0049 lines 9-16; providing/generating game card

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and draw request in response to requested game, 0048, 0049; preventing comparison upon a positive end of game criterion, Second Half of 0049, by automatically storing player cards and automatically starting new game upon determination of a winner, the system disclosed in Itkis prevents a player from using a new card with the previous drawing.

12. Regarding at least claims 2-5, 12-14 and 35, Itkis discloses unique end of game criterion associated with a unique prize, such as one prize amount for a simple BINGO and another prize amount for a specific pattern; identifying a winning game card, 0014, issuing a prize and associating prize with end of game criterion, 0014; positive end of game criterion signals the end of the game, worded a different way, the game state changes to "end of game", 0014, positive end of game criterion starts a new game, 0014, generating a game card in response to a request to play a game, 0048.

13. Regarding at least claims 8-11, Itkis discloses selecting a game card from a set; generating and storing a set of game cards, retrieving game card from set, flagging winning cards, 0042, 0057, 0061.

14. Regarding at least claims 15 and 16, Itkis discloses that at least one or as many as all steps can be remote, 0012.

15. Regarding at least claims 17-20, Itkis discloses that players must validate their tickets to get a prize, this validation would determine that they are a winner; this validation completes that session for them; the validation process does not prevent new requests from taking place, 0015, 0016.

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16. Regarding at least claims 23-27 and 29-32, Itkis discloses a draw communication means and card drawing means, fig 1 items 2, 9, 33, 44, 129; card communication means, fig 9; archiving means, fig 9 items 4, 38, 40; card storage and distribution means, fig 9 items 4, 38, 33; card generation means, 0042; the system comprises more than one entity, the generation and handling means forming one of the entities, Fig 1 item 2; draw generation means is a bingo blower, Fig 1 Item 9; prize evaluation means, remotely connected to request handling means, Fig 1 Item 2.

17. Regarding at least claims 36 and 37, Itkis discloses a criteria evaluations means, that can use criteria to validate a win, Fig 1 Item 12 and 7, in communication with an end of game evaluation means, Fig 1, Item 2.

18. Regarding claim 38, Itkis discloses that once a winning card has been found play is suspended on that gaming session, upon validation and collection of winnings that particular gaming session would officially then be over, 0014, 0049, 0050.

19. Regarding claim 39, Itkis discloses constantly monitoring all active cards in a set for potential winning, if no card fulfills the end of game criteria, that state of the game is noted and subsequent draws occur until a card meets the end of game criteria, 0057.

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

22. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman in view of Kentucky State Gaming Regulations. The rejection in view of Goldman has been discussed above. Regarding claim 21 Goldman does not explicitly disclose limiting the time for game validation. The Kentucky State Gaming Regulations not only disclose, but also mandate that lottery tickets will have limited time for validation. 154A.110 (2) (e). It would be obvious to one of ordinary skill in the art at the time of the inventions to combine the lottery game of Goldman with the Kentucky State Gaming Regulations, as law would require it.

23. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis in view of the Kentucky State Gaming Regulations. The rejection in view of Itkis has been discussed above. Itkis does not explicitly disclose preventing duplicate cards. The Kentucky State Gaming Regulations has a specific rule for when two players are both owed a prize, that they must split the winnings. 154A.110 (2) (d). Itkis discloses in 0017 that it is important and a goal of the invention to attract players to the casino. It would be obvious to one of ordinary skill in the art at the time of the invention to prevent the duplication of cards in the Itkis system in order to insure that "high-rollers" and other

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players will not have to share prizes with anyone and therefore better attract them to a certain casino.

24. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis. Itkis does not explicitly disclose monitoring jackpot prizes. Itkis does disclose monitoring prizes in general on both a TV monitor as well as a portable monitor. It is well known in the art that a Jackpot prize or progressive prize is common to all forms of gaming, including keno, bingo, slots, and lotteries (such as power ball). It would have been obvious to one of ordinary skill in the art at the time of the invention to add Jackpot monitoring functionality to the current prize monitoring functionality to allow the players a complete look at the current and potential future winning as disclosed in Goldman 0043.

25. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Citation of pertinent prior art

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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27. Krause et al. US Patent 4,087,092 – Random generator instant game and method
28. Richardson et al. US Patent 5,072,381 – Automatic Electronic Downloading of Bingo Cards with Algorithm for Generating Bingo Cards
29. Fields et al. US Patent 5,157,602 – Apparatus and Method for Generating Number Sets
30. Goldfarb, US Patent 5,494,293 – Method of Playing a Game of Chance using pre-drawn numbers
31. Banyai, US Publication 2001/0034262 – Match Number Game

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Weber whose telephone number is 571-272-3064. The examiner can normally be reached on Monday - Friday 7am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CSW

Ronald Benson
Primary Examiner
2/27/07